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**State of Oregon
Department of Environmental Quality**

Memorandum

To: The Honorable Ted Ferrioli, Co-Chair
The Honorable Ken Messerle, Co-Chair
The Honorable Susan Morgan, Co-Chair
Stream Restoration and Species Recovery Committee

From: Neil Mullane, Northwest Region Administrator

Date: January 30, 2002

Subject: Status Report on Portland Harbor

The last presentation to this committee was November of 2000. The site was officially placed on the National Priorities List (NPL) in December 2000. The site was listed because of contamination in the sediments, including PCBs, metals, pesticides and petroleum products. We would like to take this opportunity to update you on the project:

Portland Harbor Memorandum of Understanding

The Environmental Protection Agency (EPA) and DEQ are part of a larger project team that includes natural resource trustee agencies such as U.S. Fish and Wildlife, National Marine Fisheries Service and Oregon Department of Fish and Wildlife, and six Tribal governments, including the Siletz, Grand Ronde, Yakama, Umatilla, Warm Springs, and Nez Perce. The Natural Resource Trustees are charged with protecting, on behalf of the public, natural resources such as salmon and migratory birds. Tribal governments are also Natural Resource Trustees. In addition, the tribes have a role as sovereign nations with treaty rights and cultural and natural resource issues.

This team of tribal and agency representatives developed a memorandum of understanding (MOU) that outlines coordination between all the parties and lists specific EPA and DEQ responsibilities. The MOU is based on the Governor's Statement of General Principles that were attached to his July 2000 concurrence letter. Under the agreement, DEQ serves as the lead agency for upland source control; EPA is responsible as the lead agency for sediments. The MOU was effective for EPA and DEQ when they signed it on February 8, 2001, and the other signatories became parties to the agreement on the date that they signed.

The MOU:

- Establishes that DEQ is the lead agency at upland sites, continuing its cleanup work along the banks of the river, using its authorities under the State cleanup law;
- EPA is the lead agency for the in-water (sediment) investigations, using its authorities under the federal Superfund law;
- Establishes a Technical Coordination Team and a Legal Coordination Team that meet regularly to identify and resolve issues during development and implementation of the sediment investigation and uplands cleanup work;

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- Describes how Tribal Cultural Resource issues will be addressed; and
- Specifies that EPA will provide comment on key source control decisions proposed by DEQ.

DEQ MOU Requirements

The MOU outlines specific DEQ requirements, which we are currently implementing, including:

- Providing the project team copies of DEQ agreements or orders ;
- Informing the project team of any agreement negotiations, dispute resolution or modifications to agreements and provide documents generated in these negotiations;
- Providing documents related to the cleanup work at the upland cleanup sites and allow time for the project team to review and comment;
- Initiate work on a harbor-wide source control strategy;
- Notify upland responsible parties of the potential applicability of state and federal cultural resource laws; and
- Develop cultural resource guidance to be used at upland sites until a broader strategy is developed.

DEQ Environmental Work

As lead Agency for upland sites, DEQ continues work at cleanup sites along the banks of the Harbor. As of December 2001, DEQ is working on XX cleanup sites along the river. The work ranges from the very early stages of an investigation to cleanup activities. DEQ will be working with EPA, and the rest of the project team, on determining which cleanup sites are potential sources of sediment contamination, and how the upland work is coordinated with the in-water work. Responsible parties are funding all the work, including DEQ oversight.

As Support Agency for the in-water work, DEQ works closely with the project team, reviewing draft legal and technical documents, ensuring that state laws and local issues are considered in the federal work. The responsible parties who are working with EPA to investigate the sediment contamination pay for DEQ's Support Agency costs.

DEQ has been working with EPA to develop a harbor-wide source control strategy. Besides upland cleanups, the initial components of the strategy will consider: non-point and storm water discharges, permitted discharges, waste management practices and upstream contaminant sources.

McCormick and Baxter

The McCormick & Baxter Creosoting Company operated a wood-treating facility in north Portland from 1944 to 1991, and was listed on the NPL in 1996. McCormick and Baxter is an individual Superfund site, within the Portland Harbor area. DEQ is the Lead Agency, and the work is paid for by the federal Superfund. Current efforts include:

- Final design of a subsurface barrier wall that will prevent further migration of contaminants to the river. The barrier wall is currently scheduled for construction in fall 2002.
- Design of a 15-acre sediment cap, for sediments directly adjacent to the site. The cap will prevent human, fish or wildlife contact with the contamination, and design should be completed this year.

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- Developing a cultural resources survey. We have hired an archeological firm to research archeological and traditional uses to determine whether the proposed cleanup actions could impact cultural resources on the site. The cultural resources survey will ultimately support EPA's Tribal consultation requirements. This work should be completed by Summer 2002.

Coordination on Public Outreach

Since the listing, DEQ and EPA have developed joint fact sheets and articles, jointly conducted community interviews and coordinated on public involvement activities. Both agencies have worked together to update the Public Involvement Plan, which will be available this month.

If you have questions or would like additional information, please contact Neil Mullane at (503) 229-5287.